

**Fair Political Practices Commission**  
**MEMORANDUM**

To: Chairman Randolph, Commissioners Blair, Downey, Karlan and Knox

From: Carla Wardlow, Chief, Technical Assistance Division  
Luisa Menchaca, General Counsel

Date: November 9, 2004

Subject: Filing Officer Guidelines for Statements of Economic Interests

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**EXECUTIVE SUMMARY**

This project commenced as part of the Commission's objectives for 2002. The staff was asked to evaluate whether the Commission should develop procedures for state agencies to identify and classify designated positions in their conflict-of-interest codes (Project A-5). In July 2002 staff concluded and the Commission affirmed that it was appropriate to continue to permit state agencies to implement their own methods for identifying designated positions. Staff was directed to further examine whether procedures are needed for state and local agency personnel who act as filing officers for Statements of Economic Interests (Form 700) in identifying designated employees, notifying them of their filing requirements, and following up with employees who fail to file by the statutory deadline.

In December 2003, staff reported back to the Commission on its findings and offered three options to address filing officer notification procedures: 1) regulations and/or 2) legislation establishing procedures and deadlines for notification; or 3) written guidelines.<sup>1</sup> The Commission directed the staff to prepare written guidelines for consideration in late 2004. The proposed guidelines are attached as Exhibit A for your consideration.

**Proposed Filing Officer Guidelines**

Government Code section 81010<sup>2</sup> sets forth the duties of filing officers:

“With respect to reports and statements filed with him  
pursuant to this title, the filing officer shall:  
(a) Supply the necessary forms and manuals prescribed by  
the Commission;

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<sup>1</sup> The staff memorandum, dated November 25, 2003, explains in detail the history of the project. The memorandum is attached as Exhibit B.

<sup>2</sup> All references are to the Government Code unless otherwise noted.

- (b) Determine whether required documents have been filed and, if so, whether they conform on their face with the requirements of this title;
- (c) Notify promptly all persons and known committees who have failed to file a report or statement in the form and at the time required by this title;
- (d) Report apparent violations of this title to the appropriate agencies; and
- (e) Compile and maintain a current list of all reports and statements filed with this office.”

By and large, state and local filing officers make every effort to obtain required statements from their designated employees and are successful in achieving compliance with the Act. As outlined in the November 25, 2003, staff memorandum, they do not support statutory or regulatory procedures that would subject their position and agency to an enforcement proceeding, particularly in light of current budget reductions and shrinking resources. They do support Commission approved guidelines to assist them in obtaining compliance from their designated employees and fulfilling their duties under the Act. The draft guidelines set out time frames for the following types of notifications:

- Notifications prior to annual filing deadlines
- First and second non-filer notification timelines
- Enforcement referral timelines

The draft guidelines establish a 30-day notification prior to annual filing deadlines.<sup>3</sup> For non-filer notification letters and enforcement referrals, there is a two-tiered system with different timelines for agencies that have 50 or fewer designated employees and those with more than 50. A review of information collected at filing officer workshops this past year reveals that most agencies fall into either the “50 or fewer” category, or have well over 50 designated employees.

The guidelines were circulated to state and local agencies and members of the public, and an interested persons meeting was held on July 22, 2004, to receive public input. The meeting was well attended by representatives from small agencies and large, and from state as well as local agencies.

The majority of attendees agreed that 30 days is an appropriate notification period prior to annual filing deadlines and supported the two-tiered system for non-filer notifications and enforcement referrals. Most felt that the 30-day time period for agencies with 50 or fewer designated employees to send a first non-filer notification was sufficient, and that 120 days will work for agencies with more than 50 filers. The

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<sup>3</sup> Although filing officers are required to perform the duties set out in section 81010 for designated employees who assume and leave office, it is often difficult for filing officers to obtain information on assuming and leaving office dates in a timely manner. For this reason, the draft guidelines do not establish specific timelines for sending notifications prior to assuming or leaving office deadlines.

Commission, which receives approximately 15,000 annual filings, notifies non-filers within 90 days under normal circumstances. However, staff reductions and a computer problem pushed us to approximately 120 days this year.

The representative from the Electricity Oversight Board (EOB) recommended a single, 150-day timeline for the first non-filer notification, and a 90-day timeline for the both the second notification and enforcement referral. With only 25 employees, many of whom travel around the state, all of its resources are devoted to fulfilling its statutory responsibilities and there is only a single employee with other duties who acts as the agency's filing officer. However, after further discussion, staff continues to recommend the proposed two-tiered system. Other, much larger agencies are able to fulfill their filing officer duties with few resources. For example, Katherine Medina from Los Angeles County indicated that she alone is responsible for processing 2,000 statements for county designated employees and sent the first notification letters less than 30 days after the April 1 deadline this year. Not including the EOB's five board members and executive director, all of whom file with the Commission rather than the Board, if half of EOB's remaining designated employees failed to file by the deadline (which would be a significant percentage for any agency), EOB's recommended 150-day notification period would allow the filing officer almost four months to send a single form letter to fewer than 10 filers.

In addition, because these are guidelines, rather than statutory or regulatory procedures, strict adherence to the timelines is not mandated and no penalty is imposed if, for example, there are computer problems or other unforeseen circumstances that delay processing of the forms.

General discomfort was expressed by some filing officers about making enforcement referrals for filers who do not respond to the first and second non-filer notices. Staff pointed out that such referrals are mandatory under section 81010(d). Staff also feels that that spelling out the requirement in the guidelines will assist filing officers in obtaining compliance from their designated employees.

Staff recommends that the Commission approve the proposed guidelines for filing officer notifications.